

ESTTA Tracking number: **ESTTA583644**

Filing date: **01/24/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	KMI Brands Limited
Granted to Date of previous extension	01/26/2014
Address	Harlequin House7 High Street Teddington Middlesex TW118EE, UNITED KINGDOM
Attorney information	Jennifer Sheehan Anderson Hongiman Miller Schwartz and Cohn LLP 39400 WOODWARD AVE, STE 101 BLOOMFIELD HILLS, MI 48304 UNITED STATES tmdocketing@honigman.com Phone:734-418-4278

Applicant Information

Application No	85874324	Publication date	07/30/2013
Opposition Filing Date	01/24/2014	Opposition Period Ends	01/26/2014
Applicant	L'Oreal USA Creative, Inc. 575 Fifth Avenue New York, NY 10017 GERMANY		

Goods/Services Affected by Opposition


Class 003. First Use: 2011/11/19 First Use In Commerce: 2011/11/19
All goods and services in the class are opposed, namely: Coloring preparations for cosmetic purposes; Cosmetics; Make-up; Make-up preparations

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85095438	Application Date	07/29/2010
Registration Date	NONE	Foreign Priority Date	05/08/2010
Word Mark	NAKED		

Design Mark	
Description of Mark	The mark consists of the word "NAKED" in lower-case letters; stretching down at an angle across the middle of the "K" and "E" and the bottom of the "D" is a cone shape in white with the widest end of the cone at the bottom of the "D". The "N" and "A" and half of the "K" and "E" are black, and half of the "K" and "E" and "D" are in blue.
Goods/Services	Class 003. First use: First Use: 0 First Use In Commerce: 0 Soaps; body lotions; baby oils and baby body creams; perfumes; perfumery; eau de cologne; toilet waters; essential and non-medicated herbal body oils; cosmetics, make-up preparations; non-medicated toiletries; non-medicated skin care preparations; non-medicated bath and shower preparations; bath and shower oils, gels, creams and foams; cosmetic face and body masks; face and body scrubs; facial washes; non-medicated skin cleansers and hydrators; skin toners; skin moisturizers
Related Proceedings	Opposition Nos. 91208509, 91211307, and 91213273
Attachments	85095438#TMSN.jpeg(bytes) Notice of Opposition NAKED2 85874324.pdf(170528 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jennifer Sheehan Anderson/
Name	Jennifer Sheehan Anderson
Date	01/24/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

KMI Brands Limited,

Opposer,

Opposition No.

v.

L'Oreal USA Creative, Inc.

Mark: NAKED2

Applicant.

Jennifer Sheehan Anderson
Deborah J. Swedlow
HONIGMAN MILLER SCHWARTZ AND COHN
LLP
Attorneys for Applicant
39400 Woodward Avenue, Suite 101
Bloomfield Hills, MI 48304-5151
(734) 418-4278
janderson@honigman.com
dswedlow@honigman.com
tmddocketing@honigman.com

NOTICE OF OPPOSITION

Opposer, KMI Brands Limited, ("KMI"), a limited liability company organized and existing under the laws of the United Kingdom whose business address is Harlequin House, 7 High Street Teddington, Middlesex United Kingdom TW118EE, believes that it would be damaged by registration of the mark NAKED2 shown in Application Serial No. 85874324 and hereby opposes the same.

On March 12, 2013 Applicant, L'Oreal USA Creative, Inc., ("Applicant") filed an application to register the mark NAKED2 for coloring preparations for cosmetic purposes;

4. KMI is the owner of and relies on U.S. Application No. 85095438 for the mark NAKED for soaps; body lotions; baby oils and baby body creams; perfumes; perfume; eau de cologne; toilet waters; essential and non-medicated herbal body oils; cosmetics, make-up preparations; non-medicated toiletries; non-medicated skin care preparations; non-medicated bath and shower preparations; bath and shower oils, gels, creams and foams; cosmetic face and body masks; face and body scrubs; facial washes; non-medicated skin cleansers and hydrators; skin toners; skin

developed a tremendous amount of goodwill in its NAKED mark.

3. KMI has spent considerable time, effort and money in developing its reputation as a leader in the personal care industry. As a result of this investment, the popularity and widespread success of its products including its products offered in connection with its NAKED mark have products under the marks owned by KMI including the NAKED mark.

2. For a number of years prior to the filing date of Applicant's application, KMI has designed, developed, marketed, manufactured, promoted and offered and sold personal care personal care products.

1. KMI is well known and famous worldwide for its natural facial, body, skincare, and hair As grounds for its opposition, Opposer alleges:

on January 24, 2014, under the Trademark Trial and Appeal Board Electronic Filing System.

January 26, 2014 to file a Notice of Opposition; and Opposer timely filed a Notice of Opposition extension of time to oppose upon consent and extraordinary circumstances of time or until 2013, to file a Notice of Opposition; Opposer requested an additional 60-day request for Gazette on July 30, 2013; Opposer requested a 90-day extension of time or until November 27, cosmetics; make-up; make-up preparations. Applicant's mark was published in the Official

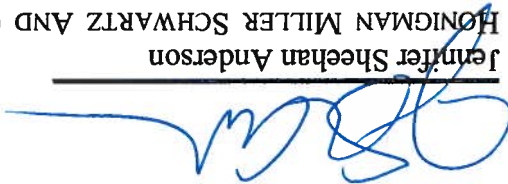
- moisturizers filed on July 29, 2010. A true copy of the details of Application No. 85095438 obtained from the PTO's TSDR database is attached hereto and made of record.
5. KMI's Application was filed long before the filing of Applicant's application.
 6. KMI through advertising and promotion of its NAKED mark, prior to the filing date of Applicant's application, has built up, at great expense and effort, valuable goodwill and recognition symbolized by the NAKED mark. U.S. consumers have come to know KMI's NAKED branded products through its Internet website, advertising and travelling abroad.
 7. Applicant's mark NAKED2 when used in connection with Applicant's goods so resembles KMI's NAKED mark, as to be likely to cause confusion, mistake, and/or to deceive consumers concerning an affiliation, connection, association or sponsorship with the source of goods and services sold under the KMI's NAKED Mark, with consequent injury to Opposer, the public and the trade.
 8. Applicant is not entitled to registration of NAKED2, in view of KMI's prior pending application and rights in the NAKED mark.
 9. Applicant has no license, consent, or permission from KMI to use or register the NAKED2 mark or marks containing the term NAKED.
 10. The literal and most predominate term of the mark shown in Applicant's application, NAKED, is identical to the term NAKED in KMI's Application.
 11. The goods KMI provides and intends to provide in connection with its NAKED mark are related or identical to the goods identified in Applicant's application.
 12. Applicant intends to provide facial make-up in connection with the mark shown in Applicant's application.
 13. KMI provides personal care products in connection with the NAKED mark.

14. KMI intends to provide cosmetics in connection with the NAKED mark.
15. By reason of the foregoing KMI will be gravely damaged by registration of the mark shown in Applicant's application.

Opposer therefore requests that application Serial No. 85874324 be refused registration, and that this opposition be sustained in favor of Opposer. The Commissioner is authorized to charge Honigman Miller Schwartz and Cohn LLP's Deposit Account No. 503145 if there is a deficiency in the enclosed filing fee.

Dated: January 24, 2014

Respectfully submitted,


Jennifer Sheehan Anderson
HONIGMAN MILLER SCHWARTZ AND COHN
LLP
Attorneys for Opposer
39400 Woodward Avenue, Suite 101
Bloomfield Hills, MI 48304-5151
Phone: (734) 418-4278
janderson@honigman.com
tmocketing@honigman.com

Jennifer Sheehan Anderson
Attorney for Opposer

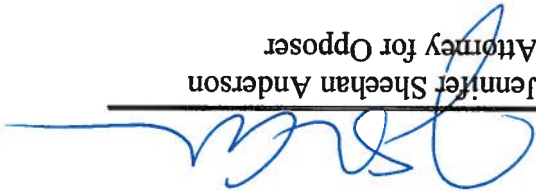


filed electronically with the TTAB via ESTTA on January 24, 2014.

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION is being

CERTIFICATE OF TRANSMITTAL

Jennifer Sheehan Anderson
Attorney for Opposer



Lisa M. Gigliotti
L'Oreal USA Creative, Inc.
575 Fifth Avenue, 34th Floor
New York, NY 10017

was served on Applicant's attorney on January 24, 2014 via first class mail to:

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION

CERTIFICATE OF SERVICE

Generated on: This page was generated by TSDR on 2014-01-24 10:58:42 EST

Mark: NAKED



US Serial Number: 85095438

Application Filing Date: Jul. 29, 2010

Register: Principal

Mark Type: Trademark

Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Dec. 18, 2012

Publication Date: Aug. 28, 2012

Mark Information

Mark Literal Elements: NAKED

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the word "NAKED" in lower-case letters; stretching down at an angle across the middle of the "K" and "E" and the bottom of the "D" is a cone shape in white with the widest end of the cone at the bottom of the "D". The "N" and "A" and half of the "K" and "E" are black, and half of the "K" and "E" and "D" are in blue.

Color Drawing: Yes

Color(s) Claimed: The color(s) blue, black and white is/are claimed as a feature of the mark.

Design Search Code(s): 26.05.21 - Triangles that are completely or partially shaded
26.05.25 - Triangles with one or more curved sides

Foreign Information

Priority Claimed: Yes

Foreign Application Number: 2548840

Foreign Application Filing Date: May 08, 2010

Foreign Application/Registration Country: UNITED KINGDOM

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Soaps; body lotions; baby oils and baby body creams; perfumes; perfumery; eau de cologne; toilet waters; essential and non-medicated herbal body oils; cosmetics, make-up preparations; non-medicated toiletries; non-medicated skin care preparations; non-medicated bath and shower preparations; bath and shower oils, gels, creams and foams; cosmetic face and body masks; face and body scrubs; facial washes; non-medicated skin cleansers and hydrators; skin toners; skin moisturizers

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: Yes

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: KMI Brands Limited

Owner Address: Harlequin House, 7 High Street
Teddington , Middlesex TW118EE
UNITED KINGDOM

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: UNITED KINGDOM

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Jennifer Sheehan Anderson
Attorney Primary Email Address: tmddocketing@honigman.com
Docket Number: 218537-33648
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: JENNIFER SHEEHAN ANDERSON
HONIGMAN MILLER SCHWARTZ AND COHN LLP
39400 WOODWARD AVE
STE 101
BLOOMFIELD HILLS, ILLINOIS 48304
UNITED STATES
Phone: 734-418-4278
Fax: 734-418-4279
Correspondent e-mail: tmddocketing@honigman.com
Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Jennifer Sheehan Anderson
Phone: 734-418-4278
Fax: 734-418-4279
Domestic Representative e-mail: tmddocketing@honigman.com
Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Feb. 22, 2013	ATTORNEY REVOKED AND/OR APPOINTED	
Feb. 22, 2013	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jan. 31, 2013	ATTORNEY REVOKED AND/OR APPOINTED	
Jan. 31, 2013	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Dec. 18, 2012	OPPOSITION INSTITUTED NO. 999999	208509
Sep. 07, 2012	EXTENSION OF TIME TO OPPOSE RECEIVED	
Aug. 28, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Aug. 28, 2012	PUBLISHED FOR OPPOSITION	
Aug. 08, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jul. 25, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	66121
Jul. 25, 2012	ASSIGNED TO LIE	66121
Jul. 06, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 05, 2012	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jul. 05, 2012	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jul. 05, 2012	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
May 23, 2012	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
May 23, 2012	NON-FINAL ACTION E-MAILED	6325
May 23, 2012	NON-FINAL ACTION WRITTEN	82088
May 15, 2012	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
May 15, 2012	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
May 15, 2012	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Dec. 01, 2011	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Dec. 01, 2011	INQUIRY TO SUSPENSION E-MAILED	
Dec. 01, 2011	SUSPENSION INQUIRY WRITTEN	82088
Jun. 01, 2011	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332

Jun. 01, 2011	LETTER OF SUSPENSION E-MAILED	6332
Jun. 01, 2011	SUSPENSION LETTER WRITTEN	82088
May 24, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
May 23, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
May 23, 2011	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Nov. 23, 2010	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Nov. 23, 2010	NON-FINAL ACTION E-MAILED	6325
Nov. 23, 2010	NON-FINAL ACTION WRITTEN	82088
Nov. 15, 2010	ASSIGNED TO EXAMINER	82088
Sep. 29, 2010	APPLICANT AMENDMENT PRIOR TO EXAMINATION - ENTERED	74193
Sep. 29, 2010	ASSIGNED TO LIE	74193
Sep. 23, 2010	TEAS VOLUNTARY AMENDMENT RECEIVED	
Aug. 03, 2010	NOTICE OF DESIGN SEARCH CODE MAILED	
Aug. 02, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Aug. 02, 2010	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information	
TM Attorney: KIM, JANICE	Law Office Assigned: LAW OFFICE 103
File Location	
Current Location: PUBLICATION AND ISSUE SECTION	Date in Location: Jul. 25, 2012

Proceedings

Summary

Number of Proceedings: 4

Type of Proceeding: Opposition

Proceeding Number: [91213273](#)

Filing Date: Nov 01, 2013

Status: Pending

Status Date: Nov 01, 2013

Interlocutory Attorney: ELIZABETH A DUNN

Defendant

Name: L'OREAL USA, INC.

Correspondent Address: SUSAN M. NATLAND
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN ST FL 14
IRVINE CA , 92614-8214
UNITED STATES

Correspondent e-mail: efiling@knobbe.com, catherine.dean@knobbe.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NAKED SKIN URBAN DECAY	Opposition Pending	85809642	

Plaintiff(s)

Name: KMI Brands Limited

Correspondent Address: Jennifer Sheehan Anderson
Honigman Miller Schwartz and Cohn LLP
39400 Woodward Ave., Suite 101
Bloomfield Hills MI , 48304-5151
UNITED STATES

Correspondent e-mail: tmDocketing@honigman.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
NAKED	Opposition Pending	85095438	

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Nov 01, 2013	

2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Nov 01, 2013	Dec 11, 2013
3	PENDING, INSTITUTED	Nov 01, 2013	
4	STIP TO SUSP PEND SETTLE NEGOTIATIONS	Dec 06, 2013	
5	SUSPENDED	Dec 06, 2013	

Type of Proceeding: Opposition

Proceeding Number: [91211307](#)

Filing Date: Jun 27, 2013

Status: Pending

Status Date: Jun 27, 2013

Interlocutory Attorney: WENDY COHEN

Defendant

Name: Holding Company I, Inc. and L'Oreal USA Creative, Inc. (joined as party defendant)

Correspondent Address: STACEY R HALPERN
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN ST FL 14
IRVINE CA , 92614-8214
UNITED STATES

Correspondent e-mail: efiling@kmob.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
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NAKED SKIN	Opposition Pending	85427654	
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Plaintiff(s)

Name: KMI Brands Limited

Correspondent Address: JENNIFER SHEEHAN ANDERSON
HONIGMAN MILLER SCHWARTZ AND COHN LLP
39400 WOODWARD AVE, SUITE 101
BLOOMFIELD HILLS MI , 48304
UNITED STATES

Correspondent e-mail: tmdocketing@honigman.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
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NAKED	Opposition Pending	85095438	
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Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 27, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 27, 2013	Aug 06, 2013
3	PENDING, INSTITUTED	Jun 27, 2013	
4	D MOT TO SUSP PEND DISP OUTSTNDNG MOT	Jul 12, 2013	
5	ANSWER DUE 9/13/13, CONSOLIDATED	Aug 17, 2013	
6	TRIAL DATES RESET	Aug 20, 2013	

Type of Proceeding: Opposition

Proceeding Number: [91208509](#)

Filing Date: Dec 18, 2012

Status: Pending

Status Date: Dec 18, 2012

Interlocutory Attorney: WENDY COHEN

Defendant

Name: KMI Brands Limited

Correspondent Address: JENNIFER SHEEHAN ANDERSON
HONIGMAN MILLER SCHWARTZ AND COHN LLP
39400 WOODWARD AVE, STE 101
BLOOMFIELD HILLS IL , 48304
UNITED STATES

Correspondent e-mail: tmdocketing@honigman.com , jga@honigman.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
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NAKED	Opposition Pending	85095438	
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Plaintiff(s)

Name: L'Oreal USA, Inc., Holding Company I, Inc. and L'Oreal USA Creative, Inc.

Correspondent Address: SUSAN M NATLAND
KNOBBE MARTENS OLSON BEAR LLP
2040 MAIN ST, 14TH FL
IRVINE CA , 92614
UNITED STATES

Correspondent e-mail: Susan.Natland@knobbe.com , efiling@knobbe.com , cheryl.brunet@knobbe.com , catherine.dean@knobbe.com

Mark	Application Status	Serial Number	Registration Number
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URBAN DECAY NAKED Registered [85003542](#) [3949180](#)

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Dec 18, 2012	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 18, 2012	Jan 27, 2013
3	PENDING, INSTITUTED	Dec 18, 2012	
4	D'S APPEARANCE OF COUNSEL/POWER OF ATTORNEY	Jan 25, 2013	
5	STIPULATION FOR AN EXTENSION OF TIME	Jan 25, 2013	
6	EXTENSION OF TIME GRANTED	Jan 25, 2013	
7	P'S MOTION TO JOIN/SUBSTITUTE PARTY	Jan 28, 2013	
8	D MOT FOR EXT W/ CONSENT	Feb 21, 2013	
9	EXTENSION OF TIME GRANTED	Feb 21, 2013	
10	TRIAL DATES REMAIN AS SET	Mar 29, 2013	
11	D MOT FOR EXT W/ CONSENT	Apr 26, 2013	
12	EXTENSION OF TIME GRANTED	Apr 26, 2013	
13	ANSWER	May 28, 2013	
14	P MOT FOR EXT W/ CONSENT	Jun 24, 2013	
15	P MOT TO JOIN/SUBSTITUTE PARTY	Jul 12, 2013	
16	CONSOLIDATED; TRIAL DATES RESET	Aug 17, 2013	
17	BOARD'S ORDER	Aug 22, 2013	
18	P MOT FOR EXT W/ CONSENT	Sep 09, 2013	
19	EXTENSION OF TIME GRANTED	Oct 21, 2013	
20	P MOT TO SUSP W/ CONSENT PEND SETTL NEGOTIATIONS	Oct 30, 2013	
21	SUSPENDED	Dec 16, 2013	

Type of Proceeding: Extension of Time

Proceeding Number: [85095438](#)

Filing Date: Sep 07, 2012

Status: Terminated

Status Date: Dec 26, 2012

Interlocutory Attorney:

Defendant

Name: KMI Brands Limited

Correspondent Address: MARY CATHERINE MERZ
MERZ & ASSOCIATES, P.C.
1010 LAKE ST STE 400
OAK PARK IL , 60301-1135
UNITED STATES

Mark	Application Status	Serial Number	Registration Number
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NAKED Opposition Pending [85095438](#)

Potential Opposer(s)

Name: Urban Decay Cosmetics LLC

Correspondent Address: Susan M. Natland
Knobbe, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine CA , 92614
UNITED STATES

Correspondent e-mail: efiling@knobbe.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
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Name: Too Faced Cosmetics, LLC

Correspondent Address: Susan L. Heller
Greenberg Traurig, LLP
1840 Century Park East Suite 1900
Los Angeles CA , 90067
UNITED STATES

Correspondent e-mail: latm2@gtlaw.com

Prosecution History			
Entry Number	History Text	Date	Due Date
1	INCOMING - EXT TIME TO OPPOSE FILED	Sep 07, 2012	
2	EXTENSION OF TIME GRANTED	Sep 07, 2012	
3	INCOMING - EXT TIME TO OPPOSE FILED	Sep 25, 2012	
4	EXTENSION OF TIME GRANTED	Sep 25, 2012	